

FTH
February 01, 2018

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

C.A.No.: 3:17cv30031

JANETTE HERNANDEZ PAGAN, PPA
F.H., a minor
PLAINTIFF

vs.

CITY OF HOLYOKE, A Municipal
Corporation, OFFICER THOMAS J.
LEAHY, OFFICER JAMES DUNN,
OFFICER JABET LOPEZ
DEFENDANTS

FTH

DEPOSITION OF: **[REDACTED]**

Taken before Roxanne C. Costigan,
Certified Merit Reporter, Notary Public, pursuant to
Rule 30 of the Massachusetts Rules of Civil
Procedure, at the law offices of ACCURATE COURT
REPORTING, INC., 1500 Main Street, Suite 222,
Springfield, MA, on February 1, 2018.

Roxanne C. Costigan
Certified Merit Reporter

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1 A. No.

2 Q. No suspensions?

3 A. No.

4 Q. Do you remember that night with the
5 Holyoke police?

6 A. Yes.

7 Q. You were what, twelve years old then?

8 A. Yes.

9 MR. PINEIRO: Yes, sir.

10 THE WITNESS: Yes, sir.

11 Q. (By Mr. Emma) Listen to him. You don't
12 have to call me sir for my purposes, but if he wants
13 you to call me sir, that's fine, okay? And that means
14 you're a good, respectful young man. Thank you.

15 Do you remember what time it was that you
16 went out to get your little brother?

17 A. I know it was dark outside.

18 Q. Do you remember about what time it was?

19 A. Between the hours of eight and ten.

20 Q. All right. When did you encounter
21 Mr. Sayas?

22 A. After I have received a call from my
23 mother to go get my brother outside.

24 Q. Okay. Well, maybe I misunderstood what

1 your mother told us, but my understanding was that she
2 told you to go get your brother. Were you in the
3 house when she told you to go get your brother?

4 A. I was in the house.

5 Q. All right. And you went outside, and
6 when did you encounter Mr. Sayas?

7 A. I was walking towards the basketball
8 court and he came out of a building that's adjacent to
9 ours.

10 Q. Did you know him?

11 A. No.

12 Q. You had never laid eyes on him before?

13 A. No. I have seen him around the
14 neighborhood.

15 Q. Okay. Did he have a gun then when you
16 first encountered him?

17 A. Yes, he had a gun in his hand.

18 Q. And you saw the gun in his hand then?

19 A. Yes.

20 Q. Did it frighten you?

21 A. Yes.

22 Q. Why did it frighten you?

23 A. Because I know it was a deadly weapon and
24 it could hurt somebody.

1 Q. What was he doing? What was he saying?

2 A. He was saying that he was going to kill
3 himself, that nobody loved him.

4 Q. He is a grown man, right?

5 A. Yes.

6 Q. About how old would you say?

7 A. I don't know. He looked young.

8 Q. What did you do?

9 A. I didn't want him to hurt himself because
10 I knew I could have done something to prevent that.

11 Q. You think you could have helped him?

12 A. Yes.

13 Q. How do you think you could have done
14 that?

15 A. By telling him not to, trying to convince
16 him to drop the weapon.

17 Q. Did you try to do that?

18 A. Yes.

19 Q. In the meanwhile, where was your little
20 brother?

21 A. My brother, I had went to go get him, he
22 wasn't at the basketball court, so he was at one of
23 his friend's house.

24 Q. So, did you go to the basketball court

1 first and then after that encountered Mr. Sayas?

2 A. Yes.

3 Q. Were you on your way home from the
4 basketball court --

5 A. Yes.

6 Q. -- when you saw Mr. Sayas?

7 A. Yes.

8 Q. All right. So, your plan changed; you
9 didn't go home, did you?

10 A. No.

11 Q. Okay. You did you stay with Mr. Sayas?

12 A. I didn't stay with him. I tried
13 convincing him.

14 Q. Where were you when you had this
15 conversation with him?

16 A. It was right next to the dumpster outside
17 of the complex. Right in the complex, there is a
18 dumpster.

19 Q. Can you give me a street name?

20 A. Lyman.

21 Q. On Lyman Street?

22 A. Yes. North Summer, that intersection.

23 Q. Was it near the basketball court?

24 A. Yes.

1 Q. About how far away?

2 A. The basketball court, I would say, was a
3 good twenty, thirty feet.

4 Q. Mr. Torres, we know that the events
5 happened at the bridge, and I'm not so sure of the
6 layout of the map of the area. So, where was your
7 house in relation to the bridge, about how far away?

8 A. In relation to the bridge?

9 Q. Yeah.

10 A. It was at least a two, three minute walk.

11 Q. Okay. About how many blocks away?

12 A. We lived in one block, and all you had to
13 do to get to the bridge was cross the street and
14 across the canal bridge.

15 Q. Okay. So, when you would walk out the
16 front of your house, what street would you be on?

17 A. North Summer.

18 Q. How would you walk from that point on
19 North Summer to the bridge?

20 A. After you would come out of the building,
21 you would take a left and you would cross the street,
22 go straight and take a right.

23 Q. What's the name of that restaurant on the
24 Holyoke?

1 A. Amedeo's.

2 Q. Were you on the east side of Amedeo's,
3 that is, beyond Amedeo's if you had come across -- did
4 you live on what I'm calling the east side of
5 Amedeo's? Do you understand what I mean?

6 A. No, I don't.

7 Q. Okay. The bridge runs from South Hadley
8 to Holyoke, correct?

9 A. Yes.

10 Q. Amedeo's is about, what, right here, is
11 that correct?

12 A. Yes.

13 Q. All right. And if we draw a map, I think
14 South Hadley is north of Holyoke, would you agree?

15 A. I don't know the direction.

16 Q. Okay. If you were driving a car from
17 South Hadley to Holyoke to get to your house, when you
18 reach Holyoke, would you have turned left or right?

19 A. You would turn left.

20 Q. Got you. I put an X back in there
21 somewhere, right?

22 A. More over.

23 Q. All right. So, you left your house and
24 you would have walked towards Amedeo's?

1 Q. -- as he was walking?

2 A. Yes.

3 Q. That was a silver gun, was it not?

4 A. Yes.

5 Q. A revolver?

6 A. I don't -- I didn't know what a revolver
7 was.

8 Q. Okay. At some point in time, did you
9 encounter a Mr. Rivera?

10 A. There was some guy who came out
11 afterwards after him.

12 Q. Where was he when you first saw him?

13 A. He came out afterwards, because after I
14 heard Edgar saying that, he kept walking and he came
15 afterwards.

16 Q. Okay. Edgar meaning Mr. Sayas?

17 A. Yes.

18 Q. So, Mr. Sayas was walking, and then Mr.
19 Rivera came out?

20 A. Yes.

21 Q. Did he come out of a building?

22 A. The same building.

23 Q. Same building as Mr. Sayas?

24 A. Yes.

1 Q. So, when Mr. Sayas started walking
2 towards Amedeo's --

3 A. Yes.

4 Q. -- was Mr. Rivera walking along with him?

5 A. He ran after -- he came running out of
6 the building.

7 Q. Okay. And when he came running out of
8 the building, Mr. Sayas was up ahead?

9 A. He was up ahead.

10 Q. And you were behind Mr. Sayas, and
11 essentially, the three of you were moving towards
12 Amedeo's?

13 A. Yes.

14 Q. What happened next?

15 A. He was walking.

16 Q. Who is he -- I'm going to ask you not to
17 use pronouns.

18 A. Yes.

19 Q. Use Mr. Sayas or use names, okay?

20 A. Sorry. Edgar, his name, he was walking
21 towards the bridge, and Jose Rivera, he came -- he
22 came near me. He said, Oh, he is acting crazy. Go up
23 behind him and try to take the gun away from him.

24 Q. All right. Did you try to take the gun

1 away from him?

2 A. No, I did not. He was walking towards
3 the bridge, and he ended up shooting. After he shot,
4 Jose Rivera ran away.

5 Q. Okay. So, Mr. Sayas walked up to the
6 bridge?

7 A. Yes.

8 Q. That's where the bridge begins on the
9 Holyoke side, right?

10 A. He just passed the canal, just passing
11 the canal.

12 Q. Just passed the canal. Did he actually
13 get on to the bridge?

14 A. No.

15 Q. Did Mr. Sayas -- did you see Mr. Sayas at
16 any time stand on the bridge?

17 A. No.

18 Q. That would be the roadway or the sidewalk
19 that --

20 A. Yeah.

21 Q. -- constitutes part of the bridge, you
22 never saw him go that far up on to the bridge?

23 A. No, I did not.

24 Q. So, where was he standing again when he

1 was shooting?

2 A. Just on the canal bridge.

3 Q. On the canal bridge. That's before you
4 get to the large bridge, right?

5 A. Yes.

6 Q. And you saw him shooting?

7 A. Yes.

8 Q. How far away from him were you when you
9 saw him shooting?

10 A. Ten feet.

11 Q. Ten feet?

12 A. (Indicating)

13 Q. Yes?

14 A. Yes.

15 Q. And did he hit anything?

16 A. He shot twice in the air, and he shot at
17 cars.

18 Q. What were you doing when you were
19 shooting?

20 A. I crouched down, trying to take cover.
21 There was no cover. I was scared.

22 Q. Where were you?

23 A. I was ten feet, I was behind him.

24 Q. Was there anything around you that you

1 can identify?

2 A. A rail.

3 Q. Okay. And what happened next?

4 A. He ended up shooting at cars and took a
5 right towards Leverault's gauge.

6 Q. Whose garage?

7 A. Leverault's garage.

8 Q. L-E-V-E-R-A-U-L-T, something like that?

9 A. Something like that.

10 Q. Okay. Leverault's garage. So, he shot,
11 and then he took a right to go to Leverault's garage?

12 A. Yes, behind some factories.

13 Q. Did you see him hit anything?

14 A. I saw him hit cars.

15 Q. How many?

16 A. I don't remember.

17 Q. More than one?

18 A. More than one.

19 Q. Where were these cars?

20 A. They were driving towards Holyoke.

21 Q. They were on the bridge?

22 A. No. They were past the bridge.

23 Q. So, they had already come across the
24 bridge into Holyoke?

A. Yes.

Q. And had they come across the bridge and had they turned left or right after coming into Holyoke?

A. I don't know. They were just driving straight.

Q. Straight towards you?

A. No. Straight towards Holyoke, coming off the bridge coming to Holyoke.

Q. My question is, when he shot -- when he hit these cars?

A. Yes.

Q. Shot at the cars and he hit the cars, were the cars still on the bridge or had they come off the bridge into Holyoke?

A. They were coming off the bridge.

Q. All right. So, then, what happened next? What happened next?

A. He went towards Leverault's garage, and I still followed him. He ended up sitting on this little bank, like, where they put flowers.

Q. Had the police arrived yet?

A. No.

Q. And you followed him after he had shot at

1 fired?

2 A. Yes.

3 Q. So, what happens next?

4 A. Afterwards, the police arrive, and I
5 was -- I was scared, and I had hid behind the wall.

6 Q. Okay. And that is down behind
7 Leverault's garage?

8 A. In front.

9 Q. In front of Leverault's garage?

10 A. Yes.

11 Q. When the police arrived, where was Mr.
12 Sayas?

13 A. He started walking towards them.

14 Q. Walking towards the police?

15 A. Yes.

16 Q. As he was walking towards the police,
17 tell us what happened. Describe the scene.

18 A. I was hiding behind the wall. He walked
19 towards the police, and they were ordering him to put
20 his gun down and --

21 Q. Go ahead.

22 A. He walked towards -- and, like, towards,
23 like, the barrier they had set up, and I saw a Police
24 Officer tackle him.

1 Q. Take down Mr. Sayas?

2 A. Yes.

3 Q. About how many police officers were
4 there?

5 A. I don't know. I don't remember.

6 Q. Police cars?

7 A. I don't remember.

8 Q. But there were police cars?

9 A. Yes.

10 Q. You don't remember how many?

11 A. No.

12 Q. More than one?

13 A. Yes.

14 Q. More than five?

15 A. I don't remember.

16 Q. Okay. So, you saw the Police Officer
17 tackle Mr. Sayas?

18 A. Yes.

19 Q. The police didn't shoot at Mr. Sayas, did
20 they?

21 A. No.

22 Q. He certainly didn't shoot at them?

23 A. No.

24 Q. And about how far away were you from Mr.

1 Sayas and the Police Officer when he was taken down?

2 A. I would say almost a whole football
3 field.

4 Q. Football field away?

5 A. Yes.

6 Q. It was dark out?

7 A. Yes.

8 Q. But there was some lighting around,
9 wasn't there?

10 A. Yes.

11 Q. Overhead lights, street lights, and such?

12 A. Yes, from the bridge.

13 Q. Were you hiding in the shadows?

14 A. No. I was hiding behind the wall.

15 Q. Okay. And then what happened?

16 A. After I saw him get tackled, I was -- I
17 panicked and I didn't know what to do. I was scared.
18 So, I ran the other way.

19 Q. You panicked. Why did you panic?

20 A. Because I didn't know what would happen
21 next. I didn't know if they were going to do the same
22 thing to me, knowing that I didn't know anything.

23 Q. Well, you didn't have a gun, did you?

24 A. No, I did not.